

# Professional Standards and Guidance for Patient Confidentiality

## About this document

The Code of Ethics sets out seven principles of ethical practice that you must follow as a pharmacist or pharmacy technician. It is your responsibility to apply the principles to your daily work, using your professional judgement in light of the principles.

The Code of Ethics says that you must **'Show respect for others'**. In meeting this principle you are expected to:

- Respect and protect the dignity and privacy of others. Take all reasonable steps to prevent accidental disclosure or unauthorised access to confidential information and ensure that you do not disclose confidential information without consent, apart from where permitted to do so by the law or in exceptional circumstances.
- Use information obtained in the course of professional practice only for the purposes for which it was given, or where otherwise lawful.

You have both a professional and a legal duty to keep patient information confidential. This document expands on the principles of the Code of Ethics to explain your professional responsibilities around protecting the confidentiality of patient information. It is designed to meet the Society's obligations under the Pharmacists and Pharmacy Technicians Order 2007 and other relevant legislation.

This document does not detail specific legal requirements, but you must ensure you comply with relevant legislative requirements set out in the Data Protection Act and associated legislation, as well complying with common law principles and with any NHS or employment policies that may apply to your work.

## Status of this document

Principle 6.6 of the Code of Ethics states that you must comply with legal requirements, mandatory professional standards and accepted best practice guidance.

This document contains:

- Mandatory professional standards (indicated by the word ‘must’) for all registered pharmacists and pharmacy technicians; and
- Guidance on good practice (indicated by the word ‘should’) which you should follow in all normal circumstances.

If a complaint is made against you the Society’s fitness to practise committees will take account of the requirements of the Code of Ethics and underpinning documents, including this one. You will be expected to justify any decision to act outside its terms.

## **1. DUTY OF CONFIDENTIALITY**

### **STANDARDS**

Patients have the right to expect that information you obtain about them is kept confidential and is used only for the purposes for which it was given. This duty of confidentiality applies to all information obtained about a patient during the course of professional practice and extends to all members of the pharmacy team. Maintaining a patient’s confidentiality is fundamental to the partnership between yourself and the patient. A patient may be reluctant to seek advice from you in your capacity as a healthcare professional where he/she has concerns that you will not maintain confidentiality.

Confidential information includes:

- personal details (including information that is not directly relevant to a patient’s medical history):
- information about a patient’s medication (both prescribed and non-prescribed) and
- other information about a patient’s medical history, treatment or care.

## **2. KEEPING INFORMATION CONFIDENTIAL**

### **2.1 Preventing information being released accidentally**

#### **STANDARDS**

Accidental disclosure of information still constitutes a breach of confidentiality. You must take all reasonable steps to prevent accidental disclosure or unauthorised access to confidential information. Robust procedures must be in place to protect the confidentiality of information you receive, store, send or destroy.

Patient identifiable information includes the patient's name, postal address, date of birth, NHS number, video footage, and anything else that can identify a patient either directly or indirectly.

All records, registers, prescriptions and other sources of confidential information must be stored securely and be kept out of sight of patients, members of the public and any other person who should not have access to them. Security measures must be appropriate to the location where the confidential information is being stored.

You must also take all reasonable steps to ensure appropriate levels of privacy for patient consultations so that confidential information is not overheard or accessed by others.

### **2.2 Disposal of patient identifiable information**

#### **STANDARDS**

In order to maintain a patient's confidentiality, sources of patient identifiable information must be disposed of in a manner that prevents the information being seen by, or available to, unauthorised persons.

#### **GOOD PRACTICE GUIDANCE**

- Disposing of patient identifiable information may involve shredding documentation, or alternatively placing it in confidential waste or deleting the information by way of a permanent marker.

## 2.3 Computer records

### STANDARDS

Patients have the right to expect that any computer records about them are held securely. You must be satisfied that any system used is capable of restricting access. Suitable passwords, Personal Identification Number (PIN) or other restricted access systems must be in place. Any information stored about a patient must be pertinent, accurate and up-to-date. Computers must be situated so that data cannot be seen intentionally, or by accident, by those who are not authorised to have access to it.

### GOOD PRACTICE GUIDANCE

- PIN numbers or passwords should be changed at regular intervals (for example if a member of staff terminates employment at the pharmacy).
- The level of access that various members of the pharmacy team have to a patient's records should be appropriate to their duties. For example, a member of staff who is responsible only for ordering stock will not need access to patient medication records.

## 2.4 Notification to the Information Commissioner's Office

### STANDARDS

The processing of personal data, including the pharmacy patient medication record system, must be notified to the Information Commissioner's Office and records must be kept in accordance with relevant legislation. Unnecessary access to patient specific data must be prevented whether data is held electronically or in hard copy format.

## 2.5 Pharmacy staff

### STANDARDS

You must ensure that all members of the pharmacy team are aware and demonstrate an understanding of their duty to maintain and respect a patient's right to confidentiality.

## **GOOD PRACTICE GUIDANCE**

- Members of staff, where necessary, should read this document and comply with the guidance contained in it.

## **2.6 Standard operating procedures**

### **STANDARDS**

The way in which confidential information is handled must be taken into account when developing and reviewing standard operating procedures. Procedures must cover:

- who has access to confidential information and in what circumstances.
- how confidential information will be processed, used and stored.
- disclosure of information.
- maintenance of appropriate records of requests for disclosure and details of the information disclosed.

## **3. DISCLOSURE OF INFORMATION**

### **3.1 Obtaining patient consent**

#### **STANDARDS**

Information about patients must not be disclosed without their consent other than in exceptional circumstances, or where required or permitted to by law, or by order of a Court (See section 4).

Where patients allow you to share information about them you must make sure that they understand:

- what information you will be releasing;
- the circumstances in which the information will be released and who it will be released to; and
- the likely consequences of releasing the information.

Patients will generally expect that information you obtain in the course of your professional practice may be shared with other healthcare professionals or others who have a duty of confidentiality, where necessary for their care. However, you must ensure that patients are aware of who may have access to the personal information you hold and the extent that the information may need to be shared. You must check that they do not have an objection to this.

There may be occasions when patients refuse to consent to particular information being shared with others providing care for them, for example, their general practitioner. Other than in exceptional circumstances you must respect the patient's decision (see section 4.2). The patient must be made aware of the possible implications of not consenting to disclosure and his or her refusal to give consent must be documented.

Further information on obtaining consent can be found in our document 'Professional standards and guidance for patient consent'.

### **3.2 Releasing the minimum amount of information necessary**

#### **STANDARDS**

When disclosing patient information, you must release only the minimum amount of information necessary for the purpose. You must use your professional judgement to consider the information you need to disclose, taking into account who is requesting the information and why.

If it is not necessary for the patient to be identified, you must make sure that the patient cannot be identified from the information you release.

#### **GOOD PRACTICE GUIDANCE**

- Where appropriate, consideration should be given to the use of anonymised data.

### **3.3 Confidentiality and others**

#### **STANDARDS**

When you disclose confidential patient information you must ensure those you release it to are aware they are being provided with the information in confidence. These people are required to respect the patient's right to confidentiality.

### **3.4 Deceased patients**

#### **STANDARDS**

The records of deceased patients must be treated with the same level of confidentiality as those who are living. The Health Records Act 1990 governs access to the health records of deceased patients. Further information about the requirements of this Act can be found at [www.dh.gov.uk](http://www.dh.gov.uk).

## **4. RELEASING INFORMATION WITHOUT CONSENT**

### **4.1 Deciding to release information without consent**

#### **STANDARDS**

Confidential information must only be disclosed without consent in exceptional circumstances or when permitted or required by law, for example, where disclosure is by an order of the court, or where the public interest overrides the need to keep the information confidential. Examples of the circumstances where information may be disclosed without consent are detailed in section 4.2. Before releasing information without consent you must, where practical or appropriate, endeavour to persuade the patient either to release the information themselves, or give you permission to release it. If you decide to reveal confidential information without obtaining consent you must be prepared to justify your decision and any action you take.

## **4.2 Exceptional circumstances (including those permitted by law)**

Information can be disclosed without patient consent only in the following circumstances:

- 4.2.1** Where the patient's parent, guardian or carer has consented to the disclosure and the patient is deemed by law to be, or appears to be, incapable of consenting.

Our document 'Professional standards and guidance for patient consent' provides information on determining a patient's capacity to provide consent.

- 4.2.2** Where disclosure of the information is to a person or body empowered by a statute to require disclosure.

### **STANDARDS**

Where you are required to disclose information because of a statutory requirement you do not have to obtain consent prior to disclosure. You must ensure you release the information only to an authorised person who is requesting disclosure in the performance of their statutory duties.

### **GOOD PRACTICE GUIDANCE**

- All reasonable efforts should be made to tell the patient that information will be released, why it is being released and to whom it is being released.

- 4.2.3** Where disclosure is directed by H.M Coroner, a judge or other presiding officer of a court, Crown Prosecution Office in England and Wales or Procurator Fiscal in Scotland.

### **STANDARDS**

A court may order you to release patient information without consent. If so, you must release only the minimum information needed to follow the order. In certain situations your refusal to disclose information could result in you being found in contempt of court.

### **GOOD PRACTICE GUIDANCE**

- You should seek further legal or specialist advice in these situations.

**4.2.4** To a police officer or NHS fraud investigation officer who provides in writing confirmation that disclosure is necessary to assist in the prevention, detection or prosecution of serious crime.

### **STANDARDS**

There may be occasions where obtaining patient consent prior to disclosure will be inappropriate e.g. a request for information from the police to detect a serious crime, where attempting to obtain consent may allow time for destruction of evidence. The request to disclose such information must be made in writing, stating the purpose for which the information is required.

### **GOOD PRACTICE GUIDANCE**

- When faced with requests from the police or a NHS fraud investigation officer you should consider whether there are any alternative sources for the information being requested that would not cause a breach of trust between you and the patient. You should also discuss the matter with the person making the request and be satisfied that without disclosure, the investigation would be delayed or prejudiced.

**4.2.5** Where necessary to prevent serious injury or damage to the health of a patient, a third party or to public health.

For example, this situation may arise where a patient that should not be driving (possibly due to epilepsy, diabetes) continues to do so without appropriate disclosures.

### **GOOD PRACTICE GUIDANCE**

- You should discuss with the patient the implications of continuing to undertake the activity that may cause serious injury or damage.

#### **4.2.6** Where disclosure is necessary for the protection of children or vulnerable adults

##### **STANDARDS**

Where abuse or neglect of a person is suspected, that person's wellbeing is of utmost importance and ensuring this must be your prime concern.

### **GOOD PRACTICE GUIDANCE**

- You should attempt to encourage the person to consent to disclosure; however in situations where they refuse you will need to use your professional judgement to determine the best course of action.
- You should consider speaking with other healthcare professionals who are also involved in the patient's care e.g. their doctor. We have produced guidance on 'Child protection' and 'The protection of vulnerable adults'.

You should consult the Information Commissioner's Office where you have queries about the appropriateness of disclosure in any of the above circumstances.

### **4.3 Maintaining records**

#### **STANDARDS**

When you make a decision to disclose information without consent, you must keep an accurate record of:

- who the request came from.
- the reasons for releasing the information without consent.
- whether you attempted to obtain patient consent, and if not why not.
- why patient consent was refused.
- what information was disclosed.

If a patient refuses to provide consent in one situation you must not assume that they will refuse to provide consent for disclosure in the future, whether the situation is the same or the circumstances are different.

### **5. NHS CODE OF PRACTICE ON CONFIDENTIALITY**

#### **STANDARDS**

In England and Wales, the NHS Code of Practice on Confidentiality was published in 2003. It is a guide to the practice required of those who work within or under contract to NHS organisations, including pharmacists and all pharmacy staff. It is concerned with issues surrounding confidentiality and patients' consent to the use of their health records. The NHS Code of Practice can be viewed at: <http://www.dh.gov.uk/assetRoot/04/06/92/54/04069254.pdf>.

In Scotland, the NHS Scotland Code of Practice on Protecting Patient Confidentiality is a guide to the required practice of those who work within NHS Scotland. The NHS Scotland Code of Practice of Protecting Patient Confidentiality can be viewed at: <http://www.confidentiality.scot.nhs.uk/publications/6074NHSCode.pdf>.

These, and other relevant standards or guidance on patient confidentiality, must be adhered to unless you have good reason not to do so.

### **Guidance that supports this document**

We have produced documents or guidance bulletins on the following which should be considered in conjunction with these standards:

- Code of ethics for pharmacists and pharmacy technicians
- Professional standards and guidance for patient consent
- Child protection
- Protection of vulnerable adults
- Fact sheet 12: Confidentiality and the Data Protection Act 1998 and disclosure of information
- Guidance on the NHS Code of Practice on confidentiality

You can download these documents and more copies of this document from our website ([www.rpsgb.org](http://www.rpsgb.org)) or you can telephone us on 020 7735 9141.

### **Other sources of Society advice**

Further information or advice on the professional or legal obligations of the pharmacy profession can be obtained by contacting the Society's legal and ethical advisory service on 020 7572 2308 or e-mail [ftp@rpsgb.org](mailto:ftp@rpsgb.org).

### **Other useful sources of information:**

- NHS Scotland Code of Practice on Protecting Patient Confidentiality:  
<http://www.confidentiality.scot.nhs.uk/publications/6074NHSCode.pdf>
- NHS Scotland Confidentiality website:  
<http://www.confidentiality.scot.nhs.uk/>
- Confidentiality NHS Code of Practice (England and Wales):  
<http://www.dh.gov.uk/assetRoot/04/06/92/54/04069254.pdf>

1 August 2007